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EXAMINER	
PERRY, LINDA C	

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3693	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/604,598	SCHNEIDER, ERIC	
	Examiner	Art Unit	
	LINDA C. PERRY	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) *1-4* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to amendment to application 10/604,598 filed 04/21/2008. Claims 1-26 have been considered. Claims 1-4 were canceled. Claims 5-7 and 25-26 were amended.

Specification

The disclosure is objected to because of the following informalities:

The specification contains numerous errors, as said in first Office Action of 1/22/2008.

For example only,

In [0064], what is the subject of "recording"? (i.e. what is recording?)

In ¶ [0066] "an client account" is incorrect.

Examiner respectfully suggests complete review of specification to remove all such errors, and not just the examples listed here.

Examiner respectfully suggests that the specification and claims would be greatly clarified by changing all the references such that the first time occurs before the second time, as is the usual use of 'first' and 'second' times, and by clarifying the order of events to show that second amount is calculated after both second and first times. Examiner respectfully suggests a small diagram including a time line.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 -26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In particular, the method of claim 6 does not produce repeatable results because first time is when first amount is received and can, according to claim 7, be the time a network resource returns the first amount. The amount calculated is dependent on the first time and the first time can be governed by such things as variable network latency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2)

> a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-8 and 15-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Iannacci (U.S. Patent Application Publication No. 2002/0062249 hereinafter referred to as Iannacci).

Regarding claim 6, Iannacci teaches *In a device having access to one of a memory and storage with a program stored therein* (**FIGs 1, 2**)*, said program adapted to generate an amount* (transactions **¶ [0447]-[0450]**)*, a method comprising; receiving at a first time* (aggregate over a period of time **¶ [0449]**)*, a first amount* (miles balance before transaction **¶ [0449]**) *corresponding to a second time* (**¶ [0449]**)*; wherein said first time is later in time than said second time* (**¶ [0049]** shows transaction of $299.74 at 11.24 a.m. on Dec 29, or the second time, and a multiplication of the amount by 2.25 to generate the airline miles which obviously has to occur after 11.24 a.m. i.e. after the receipt of the first transaction) *and, generating a second amount from said first amount, said first time, and said second time* (credit miles, i.e. produce sum of prior mile balance plus the 674.415 miles from the transaction and within a fixed period wherein aggregation occurs, i.e. the two times are related, and also generation of second amount is tied to the aggregation time; and also the there is another possible first time which is the time of generation of the periodic statement **[0449]**)*, wherein one of a first amount and second amount is representative of an amount that is not legal tender* (miles **¶ [0449]**).

Regarding claim 7, Iannacci teaches *wherein said receiving said first amount corresponding to said second time includes receiving said first amount corresponding to said second time from one of a first data record, computer readable medium, machine readable code, network resource redirection* (network connection **¶ [0243]**)*, and input* (or input **¶ [0261]**).

Regarding claim 8, Iannacci teaches *further including updating said first data record by replacing said first amount with said second amount and said second time with said first time* (**¶ [0239]**, **[0449],** and result of transaction appears on account statement **¶ [0448], [0449], and FIG.11**).

Regarding claim 15, Iannacci teaches *wherein said receiving said one of a first amount, first time, and second time from input includes inputting said one of a first amount, first time, and second time from a user interface element* (**¶ [0126]**).

Regarding claim 16, Iannacci teaches *wherein said inputting said one of a first amount, first time, and second time from a user interface element further includes inputting said one of a first amount, first time, and second time into one of a browser location field* (Internet web site screen **¶ [0126]**)*, text box, command line, speech to text interface, optical recognition interface, and magnetic recognition interface.*

Regarding claim 17, Iannacci teaches *wherein said first amount is a principal and said generating said second amount includes adding an interest to said principal* (according to applicant's definition of interest including "an amount that is not legal tender paid for the use of money" [0038], depositing thirty seconds of audio (adding it to prior seconds accrued) in e-mail account for every $10 purchase of gasoline **¶ [0261]**).

Regarding claim 18, Iannacci teaches *further including calculating said interest* (**¶ [0261],** where $20 of gasoline is bought, 60 seconds will be calculated).

Regarding claim 19, Iannacci teaches *wherein said calculating said interest includes calculating said interest from one of an interest rate and interest type* (thirty seconds for $10 **¶ [0261]** is a fixed rate, simple interest, using applicant's definition of interest including "an amount that is not legal tender paid for the use of money" in [0038]).

Regarding claim 20, Iannacci teaches *wherein said interest rate is one of the group consisting of a fixed rate and variable rate and said interest type is one of the group consisting of a simple interest, compound interest, and continuous interest* (thirty seconds for $10 **¶ [0261]** is a fixed rate, simple interest, using applicant's definition of interest including "an amount that is not legal tender paid for the use of money" in [0038]).

Regarding claim 21, Iannacci teaches *wherein the amount of time between said first time and said second time corresponds to one of a billing period* (period ending on **FIG. 13** or award start and end date on **FIG. 9**) *and interest period.*

Regarding claim 22, Iannacci teaches *wherein said first amount is of a first amount type and said second amount is of a second amount type* (**FIG. 11,** "amount " and "award type").

Regarding claim 23, Iannacci teaches *wherein said generating said second amount includes consulting an amount type conversion table for converting said first amount type to said second amount type* (**FIG. 11,** "current award" column).

Regarding claim 24, Iannacci teaches *wherein one of a first amount and second amount is one of an amount of product, amount of service, amount of reward, amount of points, amount of time, amount of space, amount of distance, amount of light, amount of mass, amount of volume, amount of storage, amount of bandwidth, and amount of energy* (miles or award **[0449]**)..

Claims 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolfberg et al. (U.S. Patent No. 5,745,706 hereinafter referred to as Wolfberg).

Regarding claim 25, Wolfberg teaches *an apparatus comprising: a processor; one of a memory and storage in operative association with said processor* (**FIG. 1**, **Abstract**, **column 4 lines 1-10**)*; means for receiving at a first time, a first amount corresponding to a second time* (**column 4 lines 11-20**) *wherein said first time is later in time than said second time; and, means for generating a second amount from said first amount, said first time, and said second time* (**column 4 lines 42-53; column 9 line 63- column 10 line 32**)*, wherein one of a first amount and second amount is representative of an amount that is not legal tender* (**column 10 lines 22-32**).

Regarding claim 26, Wolfberg teaches *a computer program product comprising computer readable program code stored on a computer readable medium* (**column 4 lines 34 – 53**)*, the program code adapted to execute the method for receiving at a first time, a first amount corresponding to a second time* (**column 4 lines 11-20**) *wherein said first time is later in time than said second time, and generating a second amount from said first amount, said first time, and said second time* (**column 4 lines 42-53; column 9 line 63- column 10 line 32**)*, wherein one of a first amount and second amount is representative of an amount that is not legal tender* (**column 10 lines 22-32**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5, is alternately rejected and 25, and 26 are rejected under 35 U.S.C. 103(a) as being anticipated by Wolfberg et al. (U.S. Patent No. 5,745,706 hereinafter referred to as Wolfberg) and further in view of Iannacci (U.S. Patent Application Publication No. 2002/0062249 hereinafter referred to as Iannacci).

Regarding claim 5, Wolfberg teaches *a computer program product comprising computer readable program code stored on a computer readable medium* (**FIG. 1**,

Abstract) *the program code adapted to one of a generate, store, access, create, update, append, report, print, overwrite, send, forward, and distribute an account statement having ...an account balance* (information including account balance, **column 11 lines 11-39**, or fixed sum and date certain **column 5 lines 65 to column 6 line 11**) *corresponding to said date wherein at least a portion of said account balance includes an account interest* (**column 5 lines 11-19, column 7 lines 25-38**), *said account interest corresponding to a billing period* (**column 7 lines 25 -38, column 5 lines 20-24)**. *and one of an account balance and account interest is representative of an amount that is not legal tender* (**column 10 lines 22-32**).

Wolfberg does not specifically teach *an account statement having a date.* Iannacci shows an account statement with a date (**FIGs. 14, 16, 18**).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the account statement as taught by Wolfberg to an account statement with a related date as taught by Iannacci. The motivation would be to provide a standard account statement.

Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iannacci (U.S. Patent Application Publication No. 2002/0062249 hereinafter referred to as Iannacci), and further in view of Riley (U.S. Patent Application Publication No. 2002/0077940 hereinafter referred to as Riley).

Regarding claim 9, Iannacci teaches transaction amount appearing on account (**¶ [0449]**) but does not specifically teach form of record.

. Riley teaches *further including appending said second amount and said first time to said first data record* (**Fig. 1**, items 25 and 28).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the program calculating account amounts as taught by Iannacci to adapt generation of specific record forms as taught by Riley. The motivation would be to provide a specific and standard description of the transaction to the users.

Regarding claim 10, Iannacci does not specifically teach form of record generated.

. Riley teaches *further including generating from said first data record, a second data record having said second amount and said first time* (**Fig. 1**, items 25 and 28).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the program calculating account amounts as taught by Iannacci to adapt generation of specific record amount and recording the time as taught by Riley. The motivation would be to provide a specific and standard description of the transaction to the users.

Regarding claim 11, Iannacci teaches *wherein one of a first data record, second data record, input, computer readable medium, and machine readable code*

corresponds to an account (amount will…appear on periodic payment account or collection/redemption account statement **¶[0447]-[0450]**).

Regarding claim 12, Iannacci teaches *wherein said account is one of the group consisting of a membership account, reward account* (collection/redemption account **¶ [0449], [0054], and [0090]**), *prepaid account, checking account, savings account, investment account, retirement account, credit account, and debit account.*

Regarding claim 13, Iannacci teaches *wherein said account is issued from one of a bank and account provider* (**¶ [0054],** current option supplier **FIG. 11)**.

Regarding claim 14, Iannacci teaches *wherein said account provider is one of a card provider* (Visa, **FIG. 11**), *subscription provider, service provider, utility provider, and phone provider.*

Response to Arguments

I. Request for Constructive Assistance

MPEP § 707.07(j) applies to the situation in which it becomes apparent to the Examiner that there is patentable subject matter disclosed or when an application discloses patentable subject matter and that it is apparent from the claims and applicant's arguments that claims are intended to be directed to patentable subject

matter disclosed by the application. Examiner is not aware, at this time, of patentable subject matter disclosed.

II. Priority

Examiner merely notes that there were more claims in the new application, (26 versus 21) that there were more and different drawings (e.g. Figs 1f and 1e), and more material. e.g. in ¶ [0008] of the provisional, the first sentence says 'The present invention provides an accrual method for any non-monetary system that is not considered legal tender issued by a sovereign power' and the last sentence says 'The invention provides billing statement information that can be distributed via any medium to customers with the addition of presenting earned accrual information'. ¶ [0008] of the instant application begins with 'The invention enables a non-monetary account such as a time account to earn time over a duration of time' and ends with ' The invention provides an account statement representative of an amount that is not legal tender and [can be distributed via any medium to account holders with the addition of presenting earned accrual information'. Note that this could be read to say that the presentation of earned accrual information is *in addition to* the account statement, i.e. the earned accrual is not on the account statement. Furthermore, the other way of reading the original sentence is as saying that the invention can be distributed via any medium to account holders. For another example, the definition of interest in ¶ [0038] of instant application and discussion of interest in instant application is nowhere in the provisional. Indeed, the most the provisional says about interest is what is in ¶ [0045] and the rest of

the provisional also treats the amounts as being both non-monetary amounts. Thus examiner asks Applicant to indicate where in the provisional lies support for the parts of claims 1, 5, 6, 25, and 26 which say that one of first amount and second amount is representative of an amount that is not legal tender. Thus one of the two amounts may be money according to these claims.

III. Informalities

Examiner thanks Applicant for correcting the errors Examiner pointed out, but notes that the first Office Action cited errors too numerous to list. As re-stated above, there are more corrections needed.

IV. Rejection of claims 6-26 under 35 U.S.C. §112

Examiner does not understand Applicants' argument. Applicants say 'Even if second time was (sic) variable by such things as network latency" when Examiner has objected to first time's, i.e. time when first amount is received, being governed by network latency.

Examiner accepts deletion of "internal automation" and of "external automation" as satisfying the first Office Action's rejection of claims 7-16.

V. Rejection of Claims 1-4 under 35 U.S.C. §101

Examiner's arguments are moot given cancellation of claims 1-4.

VI. Rejection of Claims 6-8 and 15-24 Under 35 U.S.C. §102 as being anticipated by Iannacci.

Regarding claim 6, Examiner notes that the steps of receiving and of generating are not affected by the descriptive material describing what is received and generated. Examiner's references adequately teach the steps, in that the reference is capable of performing in the claimed manner.

Applicant describes their teaching as being different from Iannacci's because Applicant teaches Applicant teaches accrual of non-monetary interest related to an account holder's balance, the balance being different from Iannacci's alleged purchases. Examiner respectfully points out that the claims 6-8 and 15-24 do not reflect this teaching. In fact, what the amounts are is not mentioned until claim 17, wherein it is said that the amount is a principal and the second amount includes adding an interest to said principal, where Applicant defines an interest ; and claim 6 says that ONE of the amounts is 'representative' of an amount which is not legal tender.

Regarding the second step of claim 6, Iannacci clearly indicates generating 2.5 miles from an amount of $299.74, and also that the 299.75 dollars is multiplied by 2.25 for a transaction over a specified time. Hence the transaction is generated from a second time and first time, when the transaction is made and when it is received and when the interest is generated all having a relationship, and one which contains information. Thus all parts of the second part of claim 6 have been taught.

Thus Applicant's arguments are not persuasive.

VII. Rejection of Claims 1-5, 25, and 26 Under 35 U.S.C. §103-Wolfberg in view of Iannacci

Arguments regarding claims 1-4 are moot given Applicant's cancellation of those claims.

Regarding claim 5, Examiner notes that the step of generating or storing etc. is not affected by the descriptive material on the account statement. Examiner's references adequately teach the step. The additional information added in Applicant's amendment is also descriptive material which does not require a new reference.

Regarding claim 5, Examiner nonetheless notes that the added material in claim 5, the "corresponding to a billing period" is clear from Wolfberg's column 7 lines 25 -38 and again in Wolfberg's column 5 lines 20-24, new grounds necessitated by the new claim.

Regarding the rest of claim 5 and the quoted parts of 25 and 26 in the first sentence of Applicant's second paragraph, Applicant presents no arguments at all.

Then applicants make the argument that neither Wolfberg nor Iannacci teach or suggest generating a non-monetary amount of award dependent upon a first time and a second time, leaving no motivation to combine Wolfberg and Iannacci. Examiner notes no wording like that in claim 5.

Examiner notes that Examiner's rejection of claims 25 and 26 do not combine Wolfberg and Iannacci, and that although the first Office Action's heading for rejecting

claims 25 and 26 erroneously so indicates, the body of the first Office Action's claims 25 and 26 rejections do not combine them. This final rejection corrects the position and heading of the rejections which should have been a 102(b) rejection in the first Office Action.

Regarding claims 25 and 26, they read 'means for generating a second amount from said first amount, said first time, and said second time'. The second amount generated cannot be generated at all until the information corresponding to the second time is received at the first time. That fact alone creates a relationship containing information, which is all the claim requires.

VIII. Rejection of Claims 9-14 Under 35 U.S.C. §103-Wolfberg in view of Iannacci and further in view of Riley

Regarding the second step of claim 6, Applicant presents no argument. The statement is not a persuasive argument.

IX. Notice of References Cited, PTO-892

Examiner has only suggested references as being pertinent.

X. Conclusion

Examiner notes that claims 1-4 were cancelled. Examiner has found the Applicant's arguments regarding claim 5-26 unpersuasive and cannot allow claims 5-26.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda C. Perry whose telephone number is (571)270-1466. The examiner can normally be reached on 7:30AM-5PM Mon-Fri, Alt Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571 272 6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Linda C Perry/

Examiner, Art Unit 3693

01 August 2008

/Stefanos Karmis/

Primary Examiner, Art Unit 3693